



U.S. ARMY CORPS OF ENGINEERS  
REGULATORY PROGRAM  
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)  
NAVIGABLE WATERS PROTECTION RULE

**I. ADMINISTRATIVE INFORMATION**

Completion Date of Approved Jurisdictional Determination (AJD): 18-AUG-2020

ORM Number: LRL-2013-00450

Associated JDs: N/A

Review Area Location<sup>1</sup>:

State/Territory: KY City: Richmond County/Parish/Borough: Madison County

Center Coordinates of Review Area: Latitude 37.724377 Longitude -84.292903

**II. FINDINGS**

**A. Summary:** Check all that apply. At least one box from the following list **MUST** be selected. Complete the corresponding sections/tables and summarize data sources.

- The review area is comprised entirely of dry land (i.e., there are no waters or water features, including wetlands, of any kind in the entire review area). Rationale
- There are “navigable waters of the United States” within Rivers and Harbors Act jurisdiction within the review area (complete table in section II.B).
- There are “waters of the United States” within Clean Water Act jurisdiction within the review area (complete appropriate tables in section II.C).
- There are waters or water features excluded from Clean Water Act jurisdiction within the review area (complete table in section II.D).

**B. Rivers and Harbors Act of 1899 Section 10 (§ 10)<sup>2</sup>**

§ 10 Name	§ 10 Size	§ 10 Criteria	Rationale for § 10 Determination
N/A	N/A	N/A	N/A

**C. Clean Water Act Section 404**

Territorial Seas and Traditional Navigable Waters ((a)(1) waters)<sup>3</sup>

(a)(1) Name	(a)(1) Size	(a)(1) Criteria	Rationale for (a)(1) Determination
N/A	N/A	N/A	N/A

Tributaries ((a)(2) waters):

(a)(2) Name	(a)(2) Size	(a)(2) Criteria	Rationale for (a)(2) Determination
LRL-2013-450, S2	295 feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	The stream originates from the northern reach on the property and flow directly into S1, an (a) (2) tributary. The stream exhibits persistent flow during the dry season and has a morphology typical of upper perennial stream in the region.
LRL-2013-450, S3	1280 feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	The stream exhibited characteristics more typical of an ephemeral stream, but additional flow contributed from operations of the adjacent facility maintain flow at an intermittent level. The stream flows directly into S3, an (a)(2) tributary.
LRL-2013-450, S4	335 feet	(a)(2) Intermittent tributary contributes surface water flow	The stream exhibits intermittent flow starting at a head cut where ground water can be seen influencing flow

<sup>1</sup> Map(s)/Figure(s) are attached to the AJD provided to the requestor.

<sup>2</sup> If the navigable water is not subject to the ebb and flow of the tide or included on the District's list of Rivers and Harbors Act Section 10 navigable waters list, do NOT use this document to make the determination. The District must continue to follow the procedure outlined in 33 CFR part 329.14 to make a Rivers and Harbors Act Section 10 navigability determination.

<sup>3</sup> A stand-alone TNW determination is completed independently of a request for an AJD. A stand-alone TNW determination is conducted for a specific segment of river or stream or other type of waterbody, such as a lake, where independent upstream or downstream limits or lake borders are established. A stand-alone TNW determination should be completed following applicable guidance and should NOT be documented on the AJD form.

<sup>4</sup> Some excluded waters, such as (b)(2) and (b)(4), may not be specifically identified on the AJD form unless a requestor specifically asks a Corps district to do so. Corps Districts may, in case-by-case instances, choose to identify some or all of these waters within the review area.

<sup>5</sup> Because of the broad nature of the (b)(1) exclusion and in an effort to collect data on specific types of waters that would be covered by the (b)(1) exclusion, four sub-categories of (b)(1) exclusions were administratively created for the purposes of the AJD Form. These four sub-categories are not new exclusions, but are simply administrative distinctions and remain (b)(1) exclusions as defined by the NWPR.



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		directly or indirectly to an (a)(1) water in a typical year	even during drier season in typical year conditions.
LRL-20143-450, S1	1625 feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	The tributary exhibited perennial flow and has a morphology typical of upper perennial streams in the region. The stream flows to Taylor Fork, which flows through Wilgreen Lake and into Silver Creek, which flows into the Kentucky River, an (a) (1) water.

Lakes and ponds, and impoundments of jurisdictional waters ((a)(3) waters):

(a)(3) Name	(a)(3) Size	(a)(3) Criteria	Rationale for (a)(3) Determination
N/A	N/A	N/A	N/A

Adjacent wetlands ((a)(4) waters):

(a)(4) Name	(a)(4) Size	(a)(4) Criteria	Rationale for (a)(4) Determination
LRL-2013-450, W1	0.04 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	The wetland directly abuts S3, an (a) (2) tributary.
LRL-2013-450, W2	0.09 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	The wetland directly abuts S3, an (a) (2) tributary.
LRL-2013-450, W3	0.03 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	The wetland directly abuts S3, an (a) (2) tributary.
LRL-2013-450, W4	0.02 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	The wetland directly abuts S1, an (a) (2) tributary.

**D. Excluded Waters or Features**

Excluded waters ((b)(1) – (b)(12))<sup>4</sup>:

Exclusion Name	Exclusion Size	Exclusion <sup>5</sup>	Rationale for Exclusion Determination
LRL-2013-450, S4A	325 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	The upper reach of stream S4 exhibits a morphology typical of an ephemeral stream in the region. This reach was dry during the 2020 site visit, while flowing water occurred downstream due to ground water contribution.
LRL-2013-450, S5	50 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	The stream exhibited a morphology typical of an ephemeral stream in the region. This reach was dry during the 2020 site visit, while flow existed in intermittent tributaries downstream.
LRL-2013-450, S6	230 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	The stream exhibited a morphology typical of an ephemeral stream in the region. This reach was dry during the 2020 site visit, while flow existed in intermittent tributaries downstream.
LRL-2013-450, W5	0.0094 acres	(b)(1) Non-adjacent wetland	The wetland formed above the upper reach of stream S6, an excluded feature. The wetland is isolated in the landscape and does not contribute or receive flow from any other feature.

**III. SUPPORTING INFORMATION**

**A. Select/enter all resources that were used to aid in this determination and attach data/maps to this document and/or references/citations in the administrative record, as appropriate.**

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<sup>5</sup> Because of the broad nature of the (b)(1) exclusion and in an effort to collect data on specific types of waters that would be covered by the (b)(1) exclusion, four sub-categories of (b)(1) exclusions were administratively created for the purposes of the AJD Form. These four sub-categories are not new exclusions, but are simply administrative distinctions and remain (b)(1) exclusions as defined by the NWPR.



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- Information submitted by, or on behalf of, the applicant/consultant: Request for Corps Jurisdictional Determination, "West Side Cycle Road" received February 4, 2020  
This information *is* sufficient for purposes of this AJD.  
Rationale: *N/A or describe rationale for insufficiency (including partial insufficiency).*
- Data sheets prepared by the Corps:
- Photographs: (*aerials and others*) Historicaerials.com(1950, 1965, 1983, 2004, 2008, 2010, 2016);Google Earth aerial(6/6/18, 10/9/13, 6/14/08, 6/14/2006, 6/19/2004, 12/30/1996), site photos(9/30/19)
- Corps Site visit(s) conducted on: July 20, 2020 and June 12, 2013.
- Previous Jurisdictional Determinations (AJDs or PJDs): LRL-2013-450 AJD issued on July 19, 2013.(Expired)
- Antecedent Precipitation Tool: provide detailed discussion in Section III.B.
- USDA NRCS Soil Survey: <https://websoilsurvey.sc.egov.usda.gov/App/WebSoilSurvey.asp>
- USFWS NWI maps: *NWI Mapper*
- USGS topographic maps: *24k, Richmond South*

**Other data sources used to aid in this determination:**

Data Source (select)	Name and/or date and other relevant information
USGS Sources	N/A.
USDA Sources	N/A.
NOAA Sources	N/A.
USACE Sources	N/A.
State/Local/Tribal Sources	N/A.
Other Sources	N/A.

- B. Typical year assessment(s):** The Antecedent Precipitation Tool was utilized for the Corps site visit on July 20, 2020 and the assessment dates of wetland delineation on September 30, 2019. The data shows that the Corps' site visit was during the dry season in normal conditions. The September 2019 assessment date was during drier than normal conditions in the dry season. The site assessment during the Corps site visit was considered a typical year conditions.
- C. Additional comments to support AJD:** N/A.

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